

SHOOK
HARDY & BACON

August 22, 2023
via e-mail

Judge Phyllis Hamilton via
Courtroom Deputy Kelly Collins
PJHCRD@cand.uscourts.gov

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Cc: City Attorney of City Of San Jose
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Re: ***Letter to Clarify Ruling on Motion for Summary Judgment (ECF Doc. 147) NAACP et al v. City of San Jose - Case No. 21-cv-01705-PJH***

Dear Ms. Collins,

On behalf of Plaintiffs, we respectfully seek clarification as to the Court's ruling on the state law claims of Peter Allen and Megan Swift. The Court's 3 August 2023 Order outlining the surviving claims appears to exclude Megan Swift and Peter Allen's state law claims against the City, despite the City's respondeat superior liability. (ECF Doc. 147, pg. 33).

The Order states that "to the extent that summary judgment was denied as to the Fourth Amendment claim brought by plaintiffs Acosta, Swift, Vasquez, Allen, and Flores, summary judgment is also DENIED as to the" state law claims. (Id. at 32). The Court granted summary judgment as to plaintiffs Swift and Allen's Fourth Amendment ***Monell*** claim against the City (id. at 29) but did not address the City's vicarious liability on the state law claims, which was asserted in Plaintiffs' brief and not contested by Defendants. (Doc. 144-1, p. 49, top of page.)

Plaintiffs respectfully seek clarification as to whether Megan Swift and Peter Allen's state law claims against the City of San José survived summary judgment.

Sincerely,



Michael L. Harrison
Attorney for Plaintiffs appearing *pro hac vice*